

REMARKS/ARGUMENTS

With regard to the restriction requirement, in order to be responsive Applicant elects claims 1 – 10, although such election is made with traverse. In particular, Applicant respectfully disagrees with the statement made at the bottom of page 2 of the Office Action that the apparatus as claimed can be used to practice another and materially different process such as operation with the fluid sampling and hydraulic testing tool external to the drain pipe. Apparatus claim 1 requires that the packer member 72 be disposed about the drilling pipe 23 in the bore hole 22 above the sampling and testing tool 20 (see also Fig. 3). Thus, it is respectfully submitted that the tool is also in the drilling pipe and cannot be external to the drilling pipe. It is therefore respectfully requested that both the apparatus claims elected as well as the method claims be kept together for examination purposes. Furthermore, it is respectfully submitted that keeping the apparatus and method claims together will impose no undue burden upon the Examiner since any patents uncovered in the search of the common class 175 will apply equally to both the apparatus and the method claims. The Examiner's attention is also respectfully directed to MPEP section 803, the second paragraph of which states that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

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In view of the foregoing, Applicant respectfully requests that both the apparatus claims and the method claims be examined together.

Respectfully submitted,

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